IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 163 OF 1999

Shri Subhash Ramchandra Patil. ... Applicant.

V/s.

Shri Vishwanath Chanbasappa Patil and others. ... Respondents.

K.B.Sonwalkar for the applicant.

S.S.Pednekar, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 6th August 2007.

P.C.:

. Heard learned counsel for the applicant and leaned A.P.P. For the State.

. Perused revision application.

2. This revision application is directed against the judgment and order dated 23rd March, 1999 passed in Sessions Case No.199/1998 by the Second Additional Sessions Judge, Solapur, whereby the learned Sessions Judge was pleased to acquit the accused of the offences punishable under sections 302, 323, 504 read with 34 of Indian Penal Code.

3. The learned counsel appearing for the applicant- complainant has taken me through the entire judgment and the evidence available on record. He submits that the prosecution has examined as many as 10 witnesses and produced documentary evidence like medical report and chemical analysis report. He submits that in spite of this the trial Court has wrongly come to the conclusion that prosecution could not prove the case beyond doubt. He submits that the trial Court was not right in holding that the complainant's evidence was contrary to the evidence of P.S.I. Mr.Satpute. According to him since the trial Court has come to the conclusion that the present sessions case and the counter session case filed by respondent No.3 arose out of the same incident, then it is clear that when the alleged incident took place all the accused were present and participated in committing the offence. He further submits that the trial Court was wrong in holding that the respondents-accused have exercised their right of private defence as such cannot be held liable for the death of the deceased. He, therefore, submits that the impugned order is liable to be quashed and set aside.

4. I have gone through the evidence available on record, impugned judgment and findings recorded therein. The entire case of the applicant revolves

around the appreciation of evidence. The trial Court has rightly appreciated the evidence available on record and recorded acquittal in favour of the accused.

5. In my opinion, on proper appreciation of evidence acquittal of the accused is recorded by the trial Court. In the case of **C.P.Fernandes v. Union territory of Goa, Daman & Diu**, AIR 1977 SC 135, the Apex Court has ruled that the Court should not interfere with the trial Court view unless found to be unreasonable or perverse. If two views are possible on the basis of evidence on record, the higher Court should not disturb the findings of the trial Court is the settled law (see **Varghese Thomas v. State of Kerala**, 1977 SC 701).

6. This Court not being a Court of appeal cannot substitute its view in exercise of revisional jurisdiction. Revisional jurisdiction is not only limited in scope but also is discretionary. The Court interferes in the revisional jurisdiction only in exceptional cases of flagrant miscarriage of justice as held by Apex Court in the case of **State of Rajasthan v. Gurucharandas Chaddha, AIR 1979 SC 1895.**

7. Having examined the legal position, no fault can be found either with the appreciation of evidence or with the view taken. The view taken by the trial Court is reasonable and possible view in the facts and circumstances of the case which can be supported on the basis of evidence on record. No perversity or unreasonable approach on the part of the trial Court could be pointed out by the applicant.

8. In the above view of the matter, no case is made out to entertain this revision application. The same is dismissed in limine with no order as to costs.

JUDGE